THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.NO.13416 OF 2004

DATED: 21-06-2006

Between:

Jaggavarapu Chennakesava Reddy.

..Petitioner.

and

The Superintendent of Police, West Godavari District, Eluru and others.

..Respondents.

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.13416 of 2004

ORDER:

This writ petition is filed for a writ of mandamus to declare the action on the part of the respondents in not registering the crime and investigating into the petitioner's report dated 19-06-2004 as illegal, irregular and violative of Articles 14,21 and 300-A of the Constitution of India, and consequently direct the respondents to register a crime, investigate into and submit a charge sheet against the culprits to the Court of competent jurisdiction in accordance with law and pass suitable orders.

2. It is stated by the writ petitioner that he is the absolute owner of Massie Ferguson Tractor bearing registration No. AP 37 T 3159 and Trailer No.AP 37 T 2209 and he sent his tractor on hire through his driver Srinivasulu Reddy to work under Srimannarayana Reddy, a resident of Koduru village in G. Konduru Mandal, Krishna District. On 12-5-1996 at about 11-00 pm, the Sub-Inspector of Police, Chintalapudi by name, P. Satyanarayana and his constables Lakshmanarao and Ramarao went to Koduru village to commit robbery of his tractor and trailer on the abatement of PACS President, Jaggavarapu Muthareddy and their village ruling party leaders due to grudge inasmuch as he worked

against them in parliamentary elections in the year 1996. Accordingly, they committed robbery by threatening his driver Jonnala Srinivasulu Reddy to kill him and got drove away the tractor to Chintalapudi Police Station. It is stated that he approached the Sub-Inspector of Police, Chintalapudi Police Station, but the vehicle was not delivered to him. The vehicle was placed at the house of Errampalli PACS President Jaggavarapu Muthareddy. Then, the petitioner filed W.P.No.10719 of 1996 on the file of this Court for release of the said vehicle and that on 02-07-1996, this Court ordered for release of the vehicle, but the respondent therein denied seizure or custody of the said tractor and trailer. During his enquiry, the petitioner found that his tractor and trailer were lying in the custody of one Obillaneni Raja and others at Rangapuram Village of Lingapalem Mandal. He reported the same to the respondents, but they had not taken any action. The valuable spare parts of the tractor and trailer including tyres were removed by the miscreants, damaged the vehicle and shifted un-useful parts to his tractor and trailer. They have committed mischief to a tune of Rs.10,00,000/-, which includes the value of tractor, trailer and prospective income suffered thereon during all these years. They misused his tractor and trailer for their purpose. It is further stated that this Court disposed of the W.P.No.10719 of 1996 and Contempt Case No. 1244 of 1996 on 04-09-2003, leaving it open to the petitioner to workout his remedies against those, who are in possession of his tractor and trailer. Then, he reported to the 4th respondent on 19-06-2004 to take action against those persons, who committed robbery of his tractor and mischief etc., but the 4th respondent did not take any

action on his report. He approached the other respondents and complained about the inaction of the 4th respondent. All the respondents are avoiding to register the crime and investigate into the matter on the pretext that the offences were barred by limitation. It is stated that the allegations in the complaint would attract the offences under Sections 390, 392, 413, 414, 439 and 440 r/w Section 109 IPC. All these offences to be investigated into and tried inasmuch as there is no period of limitation prescribed for such category of offences. In substance, this is the stand taken by the writ petitioner.

3. Respondent No.5, who was not originally impleaded, came on record, vide order dated 20-04-2006 in WPMP No.19491 of 2004. R1 and R4 filed counter affidavits denying certain allegations made in the affidavit filed in support of the writ petition.

4. In the counter-affidavit filed by the first respondent, the Superintendent of Police, West Godavari District, Eluru, it is stated that he came to know about this matter when the Government Pleader for Irrigation called him on 14-04-2006. Immediately all the records were verified at his office and also enquired the matter with the 4th respondent. As per his verification and enquiry, no records pertaining to the alleged petitioner's complaint in the year 1996 are traced. It is further stated that the matter pertaining to the alleged seizure was considered in detail by this Court in W.P.NO.10719 of 1996 and C.C.No.1244 of 1996, wherein a common order was passed on 04-09-2003. In spite of the liberty given to the petitioner to approach the Civil Court by filing of a civil suit no action was initiated by the

petitioner till today, as per his affidavit. However, this writ petition is filed seeking a direction to the respondents to register a crime and investigate into the matter. It is stated that on 26-7-2004 at about 3-30 A.M., during the routine night rounds by the 4th respondent, a tractor with trailer was found and the same was seized by him under special report and that a case in Crime No.63 of 2004 was registered under Section 102 Cr.P.C. Thereafter the said tractor with trailer was produced before the Mandal Executive Magistrate, Lingampalem Mandal, West Godavari District on 26-7-2004 itself and the report was taken on file, vide M.C.No.6 of 2000. As per the orders of the Mandal Executive Magistrate, Lingampalem Mandal, West Godavari District, the said tractor and trailer are kept under the custody of the 4th respondent. It is also further stated that the petitioner can approach the Mandal Executive Magistrate for passing appropriate orders by producing the necessary documents. Further, it is stated that the Mandal Executive Magistrate, Lingampalem Mandal, had issued summons on 10-03-2006 to the petitioner to appear in person for furnishing information to get the property released.

5. In another counter-affidavit filed by the 4th respondent, the Sub-Inspector of Police, Dharmajigudem Police Station, West Godavari District, it is stated that the petitioner is put to strict proof of the contentions made in paras 3 to 6 of the affidavit and that no records pertaining to the incident dated 12-05-1996, said to be relating to Krishna District, are found in the 4th respondent police station. It is false to allege that the petitioner made a report to him on 19-06-2004 and he did not take action on the said report.

It is also further averred that on the night of 25/26-07-2004, at about 3-30 am during night rounds by this respondent along with PCs, at Rangapuram Village Centre, he found Massie Ferguson Tractor bearing Registration No.AP 37 T 3159 and Trailer No. AP 37 T 2209 in an abandoned state and thereupon, this respondent caused enquiries nearby and as nobody claimed ownership of the said tractor and trailer, the same were seized by him under special report in Crime No.63 of 2004 under Section 102 Cr.P.C. and produced the same before the Mandal Executive Magistrate, Lingapalem Mandal, West Godavari District on the same date i.e., 26-7-2004 and the report was taken on file by the Mandal Executive Magistrate, Lingapalem, vide M.C.No.6 of 2004. As per the orders of the Mandal Executive Magistrate, Lingapelm, the said tractor and trailer are kept in this respondent police station for safe custody. It is further stated that since the petitioner claims to be the owner of the said seized tractor and trailer in Crime No.63 of 2004 which is pending before the Mandal Executive Magistrate, Lingapalem, vide M.C.No.6 of 2004, it is open to the petitioner to approach the Mandal Executive Magistrate, Lingapalem with necessary documents for release of the vehicle. It is further stated that the petitioner himself has stated in the present writ petition that W.P.No.10719 of 1996 and C.C.No.1244 of 1996 filed by him earlier were disposed of by this Court on 04-09-2003, leaving it open to him to work out his remedies against those, who are in possession of his tractor and trailer. Therefore, the present writ petition is not maintainable and the contention of the petitioner that this respondent has not taken any action on the alleged complaint dated 19-06-2004 relating to the incident of the year 1996 in Krishna District is untenable. The petitioner is put to strict

proof of various allegations made against the then police officials and others in respect of the incident pertaining to the year 1996. There is no truth in any other allegations made by the petitioner in the affidavit filed in support of the writ petition. There are no valid grounds for grant of any relief to the petitioner in the present writ petition and the same is liable to be dismissed.

6. Heard both sides.

7. No doubt, the incident appears to be an old one and that after sufficient lapse of time, the petitioner stated in his affidavit that he reported the 4th respondent on 19-06-2004 relating to the incident of 1996, but in the counter affidavit filed by the 4th respondent, a specific stand was taken that no records in relation to the incident of 1996 are available. The question whether all the offences said to have been committed are barred by limitation or not may have to be gone into at the appropriate stage.

8. In the light of the facts and circumstances, the petitioner is given liberty to submit a report in accordance with law before the 4th respondent and the 4th respondent to consider and enquire the same in accordance with law. Except giving this liberty, no further direction can be given at this stage.

9. The Writ Petition is disposed of accordingly. No order as to costs.

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P.S.NARAYANA,J

Dated:21-06-2006

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